

December 8, 2016

Mr. Matthew Bishop
Morris & Ritchie Associates, Inc.
1220-C East Joppa Road, Suite 505
Towson, Maryland 21286

Re: Tradepoint Atlantic A-3
Forest Conservation Variance –
FC 07-16-2370

Dear Mr. Bishop:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on December 2, 2016. This request proposes to base afforestation calculations on the 1.14 acre limits of disturbance outside of the Critical Area rather than the entire Tradepoint Atlantic site for construction of parking spaces. Most of the limits of disturbance (49.71 acres) are within the Chesapeake Bay Critical Area, as are the two proposed distribution facilities and the majority of the parking. An earlier variance was approved for this site, but revised grading plans with a minor change in the limits of disturbance have necessitated a new variance.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The site was in heavy industrial use for a century, now abandoned and razed, and is currently undergoing groundwater remediation. The applicant is seeking to add parking outside of the Critical Area. There is no forest impacted by this

work. Full application of the law to the entire Tradepoint Atlantic site would result in unwarranted hardship to the applicant, and we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. Two industrial manufacturing buildings were previously on this site. The petitioner wants to construct parking associated with two new industrial buildings. The entire Tradepoint Atlantic site was developed with heavy industry and is proposed for redevelopment, unlike the surrounding community; therefore the circumstances here are unique and not related to the conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property use has been industrial for many years, and will not change. The proposal to construct parking outside of the Critical Area will not change the character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The site is currently receiving groundwater remediation measures. All sediment and erosion control techniques will be met during and after construction. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not started construction and is seeking all permits and approvals. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the afforestation to be based on the limits of disturbance rather than the entire Tradepoint Atlantic site, which is in the early stages of redevelopment, is consistent. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent with the following condition:

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The afforestation fee-in-lieu of \$4,356.00 must be paid prior to the release of the building permit.

This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law. It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and an amended variance request.

If you have any questions regarding this correspondence, please call Ms. Regina Esslinger at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director